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**FILED**

Board of Vocational Nursing  
and Psychiatric Technicians

8  
9 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11  
12 In the Matter of the Petition to Revoke  
13 Probation Against,

Case No. PT 1996 452

14 **ARLLIN JAMES MORTON**  
15 **3941 Polk Street, Apt. 171**  
**Riverside, CA 92505**

PETITION TO REVOKE PROBATION

16 **Psychiatric Technician License No. PT**  
17 **34966**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Petition to Revoke  
22 Probation solely in her official capacity as the Executive Officer of the Board of Vocational  
23 Nursing and Psychiatric Technicians, Department of Consumer Affairs.

24 2. On or about March 18, 1971, the Board of Vocational Nursing and Psychiatric  
25 Technicians issued Psychiatric Technician License Number PT 12661 to Arllin James Morton  
26 (Respondent). Pursuant to an Accusation filed on or about March 10, 1998, Respondent's license  
27 was revoked by default, effective July 22, 1998. Respondent filed a Petition for Reinstatement on  
28 or about September 15, 2008. The Board issued a decision in OAH No. 2008110156, granting

1 Respondent's petition, effective April 7, 2009, and ordered Respondent to pass the licensure  
2 examination as a condition of reinstatement of his license. A copy of that decision is attached as  
3 Exhibit A and is incorporated by reference. Respondent passed the examination on or about July  
4 8, 2009. On or about July 21, 2009, the Board reinstated Respondent's psychiatric technician  
5 license with a new number, PT 34966, which was immediately revoked, however, the revocation  
6 was stayed and Respondent was placed on probation for a period of three (3) years with certain  
7 terms and conditions. The Psychiatric Technician License Number PT 34966 expired on January  
8 31, 2011, and has not been renewed.

### 9 JURISDICTION

10 3. This Petition to Revoke Probation is brought before the Board of Vocational Nursing  
11 and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the  
12 following laws. All section references are to the Business and Professions Code unless otherwise  
13 indicated.

14 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
15 surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
16 disciplinary action during the period within which the license may be renewed, restored, reissued  
17 or reinstated.

18 5. Section 4520 of the Business and Professions Code (Code) provides, in pertinent part,  
19 that the Board may discipline any licensed psychiatric technician for any reason provided in  
20 Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et.  
21 seq.)

22 6. Section 4545 of the Code provides, in pertinent part, that the Board may renew an  
23 expired license at any time within four years after the expiration.

24 7. This Petition to Revoke Probation is brought pursuant to Paragraph 11 of the  
25 Decision in OAH No. 2008110156, referenced in paragraph 2, which states:

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27 ///

28 ///

1                   **Violation of Probation**

2                   If the Respondent violates the conditions of his probation, the Board after  
3 giving the Respondent notice and an opportunity to be heard, may set aside the  
4 stay order and imposed the stayed discipline (revocation) of the Respondent's  
5 license. If during the period of probation, an accusation or petition to revoke has  
6 been filed against the Respondent's license or the Attorney General's Office has  
7 been requested to prepare an accusation or petition to revoke probation against the  
8 Respondent's license, the probationary period shall automatically be extended and  
9 shall not expire until the accusation or petition has been acted upon by the Board.  
10 Upon successful completion of probation, the Respondent's license will be fully  
11 restored.

12                                   **FIRST CAUSE TO REVOKE PROBATION**

13                                   (Failure to Maintain a Valid License)

14                   8.       At all times after the effective date of Respondent's probation, Condition 10 stated:

15                                   **Maintenance of Valid License**

16                   Respondent shall, at all times while on probation, maintain an active current  
17 license with the Board, including any period during which suspension or probation  
18 is tolled.

19                   Should respondent's license, by operation of law or otherwise, expire, upon  
20 renewal or reinstatement of respondent's license shall be subject to any and all  
21 terms of this probation not previously satisfied.

22                   9.       Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition 10, referenced above, in that Respondent's Psychiatric Technician License  
24 Number PT 34966 expired on January 31, 2011 and has not been renewed.

25                                   **SECOND CAUSE TO REVOKE PROBATION**

26                                   (Failure to Submit Biological Fluid Samples)

27                   10.       At all times after the effective date of Respondent's probation, Condition 20 stated:

28                                   **Submit Biological Fluid Samples**

                  Respondent shall immediately submit to biological fluid testing, at  
Respondent's cost, upon request by the Board or its designee. There will be no  
confidentiality in test results; positive tests results will be immediately reported to  
the Board and the Respondent's current employer.

1 11. Respondent's probation is subject to revocation because he failed to comply with  
2 Probation Condition 20, referenced above, in that on or about January 21, 2011, Respondent  
3 notified the Board via letter that he would no longer be participating in the mandatory drug  
4 testing as he decided to surrender his license.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
7 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
8 issue a decision:

9 1. Revoking the probation that was granted by the Board of Vocational Nursing and  
10 Psychiatric Technicians in OAH Case No. 2008110156 and imposing the disciplinary order that  
11 was stayed thereby revoking Psychiatric Technician License No. PT 34966 issued to Arllin James  
12 Morton;

13 2. Revoking or suspending Psychiatric Technician License No. PT 34966, issued to  
14 Arllin James Morton.

15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: May 17, 2011.



18 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
19 Executive Officer  
20 Board of Vocational Nursing and Psychiatric Technicians  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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## **Exhibit A**

### **Decision and Order**

**Board of Vocational Nursing and Psychiatric Technicians OAH No. 2008110156**

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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement Against:

ARLLIN JAMES MORTON  
380 Country Road 113  
Tulelake, CA 96134-9247

OAH No. 2008110156

Psychiatric Technicians License No.  
PT 12661

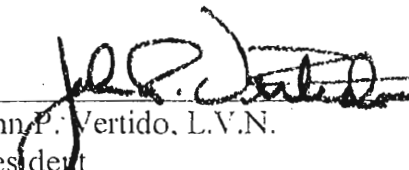
Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the  
Board of Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled  
matter.

This Decision shall become effective on April 7, 2009.

IT IS SO ORDERED this 23rd day of March, 2009.

  
John P. Vertido, L.V.N.  
President

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement  
By:

OAH No. 2008110156

**ARLLIN JAMES MORTON,**

Petitioner.

**PROPOSED DECISION**

This matter was heard by Administrative Law Judge Chris Ruiz on November 20, 2008, in Los Angeles, California.

Petitioner Arllin James Morton (Petitioner or Respondent) represented himself.

Rene Judkiewicz, Deputy Attorney General, represented the Office of the Attorney General, California Department of Justice, pursuant to Government Code section 11522.

Jurisdictional documents were presented. Testimony was taken and oral argument made. The matter was submitted on November 20, 2008.

**FACTUAL FINDINGS**

1. On March 18, 1971, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Petitioner psychiatric technician license number PT 12661.

2. On July 22, 1998, Petitioner's license was revoked, by way of default decision, because he was convicted of petty theft in December of 1996. The underlying events leading to Petitioner's conviction are that he had a back surgery, became addicted to vicodin and valium, and later committed an act of theft to support his drug habit. Petitioner also abused cocaine and methamphetamine.

3. The present Petition, filed with the Board on September 15, 2008, requests reinstatement of Petitioner's psychiatric technician license.

4. After his conviction, Petitioner was sent to prison and was released from prison on August 18, 2005. Thereafter, he successfully completed three years of parole. Petitioner has been sober since June 25, 1999. He attends Narcotics Anonymous meetings and he has a sponsor. Petitioner is employed at a horseradish plant where he processes

horseradish. In support of his Petition, Petitioner provided numerous letters from others in the community who confirm his sobriety. Petitioner also offered a letter from a licensed clinical psychologist who states that he feels Petitioner is capable of performing the obligations his licensure would mandate.

5. Considering these letters and Petitioner's testimony, Petitioner established that he is sufficiently rehabilitated to give him a second chance. Having him take the licensing examination, a refresher course, and issuing a probationary license which allows drug testing and medical evaluation, will adequately protect the public health, safety, and welfare.

### LEGAL CONCLUSIONS

1. The burden in a petition for reduction of an administrative penalty rests, at all times, with the petitioner. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The burden of the Petitioner herein is to establish by clear and convincing evidence that he is entitled to the requested relief.

2. Government Code section 11522 provides that a person whose license has been revoked may petition the governing agency for reinstatement, and that statute governs such petitions unless another, more specific, statute contains different provisions.

3. California Code of Regulations, title 16, section 2579.1, subdivision (b), states:

Petition for Reinstatement. When considering a petition for reinstatement of a license under the provisions of Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in Section 2579 of this article.

4. California Code of Regulations, title 16, section 2579, states:

When considering the denial of a license under Section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his present eligibility for a license, will consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (a) or (b).
- (d) The extent to which the applicant has complied with any terms of parole.



probation, restitution, or any other sanctions lawfully imposed against the applicant.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

5. Petitioner established by clear and convincing evidence that he is sufficiently rehabilitated based on the reasons set forth in factual findings 1-5. However, the public will be fully protected only if such reinstatement is on a probationary basis. Government Code section 11522 provides the Board authority to reinstate a license upon appropriate "terms and conditions." Three years of probation will be sufficient for the Board to verify Petitioner's continuing willingness to act in a lawful manner and to verify his sobriety.

### ORDER

IT IS HEREBY ORDERED that the Petition for Reinstatement of Arllin James Morton is granted. A psychiatric technician license shall be issued to Petitioner. Said license shall immediately be revoked, the order of revocation stayed, and Respondent placed on probation for a period of three years on the following terms and conditions:

#### **1. OBEY ALL LAWS**

Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law to the Board within five (5) days of occurrence. To ensure compliance with this term, respondent shall submit two (2) completed fingerprint cards and the applicable fingerprint processing fees to the Board within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprint cards were already submitted by the Respondent as part of his licensure application process effective July 1, 1996. Respondent shall also submit a recent 2" x 2" photograph of himself within thirty (30) days of the effective date of the decision.

#### **2. COMPLIANCE WITH PROBATION PROGRAM AND QUARTERLY REPORT REQUIREMENTS**

Respondent shall fully comply with terms and conditions of the probation established by the Board and shall cooperate with the representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Respondent shall submit quarterly reports, under penalty of perjury, in a form required by the Board. The reports shall certify and document compliance with all the conditions of probation.

**3. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S)**

Respondent shall notify the Board, in writing, within five (5) days of a change of residence or mailing address, of his new address and any change in his work and/or home telephone numbers.

**4. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE**

Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to reside or practice in another state.

Respondent shall notify the Board, in writing, within five (5) days, upon his return to California.

The period of probation shall not run during the time Respondent is residing or practicing outside California.

**5. NOTIFICATION TO EMPLOYER(S)**

When currently employed or applying for employment in any capacity in any health care profession, Respondent shall notify his employer of the probationary status of Respondent's license. This notification to the Respondent's current health care employer shall occur no later than the effective date of the Decision. The Respondent shall notify any prospective health care employer of his probationary status with the Board prior to accepting such employment. This notification shall be by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision and this Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit quarterly reports to the Board. The reports shall be on a form provided by the Board, shall include a performance evaluation and such other information as may be required by the Board.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if he is terminated from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination.

**6. INTERVIEWS/MEETINGS WITH BOARD REPRESENTATIVE(S)**

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board, or its designated representatives.

## **7. EMPLOYMENT REQUIREMENTS AND LIMITATIONS**

During probation, Respondent shall work in his licensed capacity in the State of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.

While on probation, Respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

## **8. SUPERVISION REQUIREMENTS**

Respondent shall obtain prior approval from the Board, before commencing any employment, regarding the level of supervision provided to the respondent while employed as a licensed psychiatric technician.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

## **9. COMPLETION OF EDUCATIONAL COURSE(S)**

Respondent, at his or her own expense, shall enroll and successfully complete a refresher course(s) as required by the Board. The Board shall notify the Respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, Respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study. Respondent must complete this education within two years.

Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board within thirty (30) days of course completion.

## **10. MAINTENANCE OF VALID LICENSE**

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

Should respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement respondent's license shall be subject to any and all terms of this probation not previously satisfied.

## **11. VIOLATION OF PROBATION**

If the Respondent violates the conditions of his probation, the Board after giving the Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of the Respondent's license. If during the period of probation, an accusation or petition to revoke has been filed against the Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the Respondent's license will be fully restored.

## **12. TAKE AND PASS LICENSURE EXAMINATION**

As a condition for reinstatement of a license, Respondent shall take and pass the licensure exam. within two years, currently required of new applicants to resuming practice. Respondent shall pay the established examination and licensing fees.

All standard terms or any other terms of probation shall be tolled until the Respondent has successfully passed the licensure examination and notice of licensure has been mailed to the Respondent by the Board. The Respondent's failure to pass the licensure examination within two (2) years shall be considered a violation of his probationary status.

## **13. EXAMINATION BY A PHYSICIAN**

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician of his choice who meets minimum criteria established by the Board. The physician must be licensed in California and Board certified in Family Practice, Internal Medicine or a related specialty. The purpose of this examination shall be to determine Respondent's ability to perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician with a copy of the Board's Disciplinary Order and this Decision prior to the examination. Cost of such examination shall be paid by the Respondent.

Respondent shall cause the physician to complete a written medical report on a form provided by the Board. This report shall be submitted by the physician to the Board within ninety (90) days of the effective date of the Decision. If the examining physician finds that Respondent is not physically fit to practice or can only practice with restrictions, the examining physician shall notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the examining physician's determination of unfitness to practice and shall order the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

#### **14. PSYCHOLOGICAL EVALUATION**

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist licensed in California and Board certified in psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining Respondent's current mental, psychological and emotional fitness to perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order and this Decision prior to the evaluation. Cost of such evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice with restrictions, the evaluator shall notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified the respondent. Respondent shall document compliance in the manner required by the Board. If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid by the Respondent.

#### **15. PSYCHOTHERAPY**

If the psychiatrist/psychologist (therapist) finds that Respondent is not psychologically fit to practice safely, or can only practice with restrictions, the therapist shall notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the therapist's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified the respondent. Respondent shall document compliance with this condition in the manner required by the Board.

#### **16. REHABILITATION PROGRAM**

Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical

dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. The cost for participation in this program shall be paid by the Respondent.

**17. CHEMICAL DEPENDENCY SUPPORT/RECOVERY GROUPS**

Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by the Respondent with each quarterly report. Respondent shall continue attendance in such a group for the duration of probation.

**18. ABSTAIN FROM CONTROLLED SUBSTANCES**

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

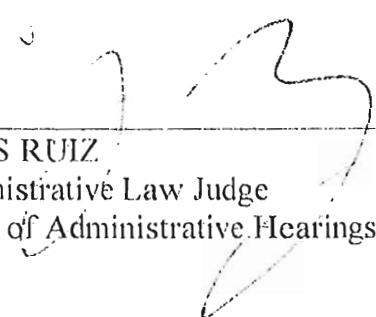
**19. ABSTAIN FROM USE OF ALCOHOL**

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

**20. SUBMIT BIOLOGICAL FLUID SAMPLES**

Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results: positive test results will be immediately reported to the Board and the Respondent's current employer.

Dated: January 16, 2009.

  
\_\_\_\_\_  
CHRIS RUIZ  
Administrative Law Judge  
Office of Administrative Hearings